



Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Robert L. Morgan

State Engineer

# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220

Salt Lake City, Utah 84116-3156

801-538-7240

## MEMORANDUM

TO: Bob Morgan  
Lee Sim  
Jim Riley  
John Mabey

FROM: Jerry Olds *JO*

SUBJECT: Utah Lake Distribution Plan

DATE: February 6, 1992

Attached are the comments which we received on the October 15, 1991 draft of the Utah Lake distribution plan. We would like to get together and discuss what our next course of action will be concerning this matter. A meeting has been scheduled for Tuesday, February 11, at 8:30 in the State Engineer's conference room.

Please review the written comments very carefully and come prepared to provide us with your input and suggestions. If you are unable to attend this meeting, I will be happy to meet with you at another time to discuss this matter with you.

/wk

Kennecott  
Utah Copper  
8362 West 10200 South  
P.O. Box 525  
Bingham Canyon, Utah 84006-0525  
(801) 569-6000

RECEIVED

FEB 03 1992

**Kennecott**

January 30, 1992

UTAH DEPT. OF  
SALT LAKE

Mr. Robert L. Morgan  
Utah State Engineer  
1636 West North Temple  
Salt Lake City, UT 84116

RE: Draft Utah Lake Drainage Basin Distribution Proposal

Dear Mr. Morgan:

Kennecott Utah Copper Corporation ("Kennecott") submits the following comments with respect to the October 15, 1991 draft distribution proposal for Utah Lake Drainage Basin. Kennecott supports the concept of a more fully integrated distribution program for the Utah Lake Drainage Basin. However, any such proposal must protect established rights in Utah Lake and the Jordan River. In this regard, Kennecott has certain concerns and objections regarding the current draft proposal.

1) The draft proposal fails to recognize Water Right 59-3518 owned by Kennecott. Water Right 55-3518 is a primary storage right from Utah Lake with an 1850 priority. This is a perfected water right for 30 cfs of water and for year around industrial use. In terms of acre feet, this right should be recognized for 21,719.3 acre feet of water.

Any tabulation of primary storage rights from Utah Lake should include Water Right 59-3518. Thus, both Table 1 on page 8 and Table 2 on page 9 should be amended to include Water Right 59-3518. Further, the last summary in the draft proposal summarizes storage rights from Utah Lake that are greater than 100 acre feet. Water Right 59-3518 is set forth on page 1 of that summary but the footnote reference on page 5 incorrectly states that the right is probably non-consumptive. This footnote should be deleted. Water Right 59-3518 is a consumptive use right for industrial purposes and has been consistently recognized as such by the State Engineer's office, most recently in Book 4, Salt Lake County West Division, Southwest Subdivision of the Utah Lake/Jordan River adjudication. The draft proposal should be amended to reflect a flow of 30 cfs and 21,719.3 acre feet of primary water for Water Right 59-3518.

2) Two other Kennecott water rights are not adequately recognized in the draft proposal. Water Right 59-23 and 59-30 with priorities of 1912 and 1918, respectively, are not included in the secondary water rights summary in Table 1 on page 8. Together, these two rights are for 48,596.6 acre feet of water and any water budget that fails to incorporate them is deficient. These rights

Robert L. Morgan  
January 30, 1992  
Page Two

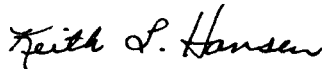
utilize water from the Utah Lake/Jordan River system and upstream rights that have a later priority must not impair or interfere with these rights.

3) The draft proposal makes reference to accretion flows from the Jordan River as a source of supply for the primary direct flow rights from the Jordan River. However, these rights are not tied to or limited by accretions in the Jordan River as a source of supply. It should be made clear that these, and other Jordan River water rights, are not restricted to accretions and have a demand on the system as a whole as a source of supply.

4) It is difficult at this time to forecast the precise impact of the draft distribution proposal on the regiment of Utah Lake and the Jordan River. This is so because the draft proposal will, to some degree, alter the manner in which the water has been historically managed through the various reservoirs on the system. Also, the operation of the Jordanelle Reservoir, once it is completed, will introduce an additional factor into the overall management of this system. Consequently, if a new distribution plan is implemented, it should be done on an interim or trial basis and should be without prejudice to the respective rights of the water users. This should be coupled with an annual meeting and report of the State Engineer which reviews the operation of the system for the previous year.

5) Any distribution proposal that is implemented should re-affirm that it is not an adjudication of the individual rights of the parties and that any such adjudication will occur within the framework of the pending statutory adjudication. Further, it should be made clear that this is not a proceeding under either the Utah Administrative Procedures Act or under the Utah Rule-Making Act.

Very truly yours,



K. L. Hansen  
Manager, Property and  
Water Resources

/CS

MARTINEAU  
NT L. POELMAN  
YMOND M. BERRY  
H. JAMES CLEGG  
DAVID W. SLAGLE  
A. DENNIS NORTON  
ALLAN L. LARSON  
JOHN E. GATES  
R. BRENT STEPHENS  
KIM R. WILSON  
MICHAEL R. CARLSTON  
DAVID G. WILLIAMS  
REX E. MADSEN  
MAX D. WHEELER  
PAUL J. GRAF  
PAUL C. DROZ  
MICHAEL D. BLACKBURN  
ROBERT H. HENDERSON  
DAMIAN C. SMITH  
STEPHEN J. HILL  
HENRY K. CHAI II  
BRYCE D. PANZER  
STANLEY K. STOLL

DAVID J. CASTLETON  
DAVID W. SLAUGHTER  
STANLEY J. PRESTON  
THOMAS M. ZARR  
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R. SCOTT HOWELL  
SHAWN E. DRANEY  
JERRY D. FENN  
CRAIG L. BARLOW  
JOHN R. LUND  
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ROBERT C. KELLER  
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THURMAN & SUTHERLAND 1886  
THURMAN, SUTHERLAND & KING 1888  
THURMAN, WEDGWOOD & IRVINE 1906  
IRVINE, SKEEN & THURMAN 1923  
SKEEN, THURMAN, WORSLEY & SNOW 1952  
WORSLEY, SNOW & CHRISTENSEN 1967

JOHN H. SNOW 1917-1980

OF COUNSEL  
MERLIN R. LYBBERT  
JOSEPH NOVAK  
HAROLD G. CHRISTENSEN

January 31, 1992

WRITER'S DIRECT NUMBER:

322-9156

Robert L. Morgan, P.E.  
Utah State Engineer  
1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156

Re: Proposed Distribution of Water Within Utah  
Lake Drainage Basin (10/15/91 Revised Draft)

Dear Mr. Morgan:

Provo River Water Users' Association (the "PRWUA") respectfully submits the following comments relative to the 10/15/91 Revised Draft of the Proposed Distribution of Water Within the Utah Lake Drainage Basin (the "Distribution Proposal").

#### GENERAL COMMENTS

In PRWUA's comments to the 5/14/91 Draft, it was noted that the Distribution Proposal falls short of achieving the objectives stated therein. PRWUA respectfully submits that the October 15, 1991 Revised Draft is likewise deficient. The responses of the State Engineer (Document No. 14) to the Comments of PRWUA to the 5/14/91 Draft Distribution Proposal do not fully answer the concerns of PRWUA stated therein, nor does the 10/15/91 Revised Draft of the Distribution Proposal do so.

In general, the Distribution Proposal is predicated on the erroneous assumption that the Utah Lake Water Users are entitled to 870,000 acre-feet ("AF") of storage in Utah Lake on November 1 of each year before any upstream "system storage" can be converted to "priority storage". PRWUA respectfully suggests that such entitlement should not exceed a one year's supply, plus inactive storage. Likewise, the Distribution Proposal is predicated on an arbitrary 125,000 AF of holdover entitlement by the owners of the primary Utah Lake storage rights. There is nothing

Robert L. Morgan, P.E.  
January 31, 1992  
Page 2

in any of the Decrees adjudicating the rights of those Utah Lake Water Users to holdover storage in Utah Lake and it is error to arbitrarily include such holdover storage in the Distribution Proposal.

### SPECIFIC COMMENTS

#### 1.0 Introduction

PRWUA respectfully suggests that to exclude the waters imported into the Utah Lake drainage from the Distribution Plan (line 35, p.2) is a mistake and could well render the whole plan unworkable. For example, Water Right No. 55-262 evidences the right to store in Deer Creek Reservoir from the Provo River up to 17,410 AF of water accumulating in Utah Lake from return flows of Provo River Project water diverted from the Weber River and North Fork of the Duchesne River during the previous year. Water Right No. 35-8756 evidences the right to store in Utah Lake up to 37,200 AF of Provo River Project water diverted from the Weber River and to store an equivalent quantity of water in Deer Creek Reservoir from the Provo River during the following year, provided that the combined total under both rights shall not exceed 30,600 AF. Likewise, Water Right No. E 398 (55-AREA) authorizes the storage in Jordanelle Reservoir up to 300,000 AF of water from the Provo River in exchange for a like quantity of water released from the enlarged Strawberry Reservoir for replacement storage in Utah Lake. Accordingly, it is self-evident that in any given year Utah Lake will contain imported waters which must be included in any plan for the distribution of the waters of Utah Lake and its tributaries. To say that such waters will be administered in accordance with their individual rights simply begs the question.

#### 3.0 Water Rights in Utah Lake

##### 3.1 Background (p.6)

It is noted on lines 15 and 18 on page 6 that the Booth Decree is referenced to the year 1908 and should be 1909 (6/05/09). The reference on lines 24-26 on page 6 that all subsequent rights established under applications to appropriate water and confirmed by the Booth Decree as secondary storage

Robert L. Morgan, P.E.  
January 31, 1992  
Page 3

rights appears to be in error, since the only subsequent application involved therein was the 40 cfs "Mosida filing" of James A. Gardner. None of the secondary storage rights tabulated on page 8 were involved in the 1909 Booth Decree.

#### 3.2.4 Table 1 (p. 8)

PRWUA respectfully suggests that it is error to tabulate Right Nos. 59-3496 (North Jordan Irrigation Company), 57-5272 (SLCWCD), and 59-3517 (Kennecott Utah Copper Corporation) as primary storage rights in Utah Lake. The Distribution Proposal should deduct the historical accretions to the Jordan River used to satisfy the foregoing rights from the quantities of water tabulated in Table 1.

The attached summary marked Exhibit "A" taken from the reports of the Utah Lake and Jordan River Water Commissioner, demonstrates that during the 53 year period from 1936 to 1988, only 11% of the water delivered to the North Jordan Irrigation Company was supplied by water pumped from Utah Lake. Furthermore, during the recent 20-year period only 2%, and during the recent 10-year period only 0.4%, were supplied by water pumped from Utah Lake. Thus, it is error to require that the combined total of 29,599 AF under the foregoing rights be made available in Utah Lake before upstream "system storage" can be converted to "priority storage".

In addition to the foregoing, that portion of the 10,499 AF allocated to SLCWCD under Right Nos. 57-5272 and 57-5722, which otherwise would have been satisfied by accretions to the Jordan River was subordinated to Right Nos. 55-295 and 59-13 by letter agreement dated August 17, 1989, as noted in PRWUA's Comments dated July 1, 1991. It should be noted that Right Nos. 59-3496, 57-5272 and 59-3517, collectively total 29,599 AF, which exceeds the 1909 Booth Decree award of 24,000 AF by 5,599 AF. Likewise, it is noted that in the "Proposed Determination" (Code No. 59, Book No. 4, p. 227) Right No. 59-3517 is limited to 2,560 AF from April 1 to October 31 and 950 AF from November 1 to March 31, for a total of 3,510 AF. However, Right No. 59-3517 is quantified at 13,750 AF in Table 1, or 10,240 AF in excess of the "Proposed Determination". It also should be noted that Right No. 59-3500 (South Jordan Canal Company) and 59-5270 (SLCWCD) total 29,635 AF, which exceeds the 1909 Booth Decree award of 27,000 AF by 2,635 AF.

Robert L. Morgan, P.E.  
January 31, 1992  
Page 4

In view of the above, the total quantity of primary storage rights in Utah Lake in Table 1, should be reduced by a net quantity of 12,875 AF (10,240 + 2,635) to a total of 176,432 AF. Likewise, the combined primary and storage rights in Table 1 should be reduced to a total of 289,171 AF to avoid enlargement of those rights.

Right Nos. 55-7060 and 55-7061, covering 3400 AF of storage in Deer Creek Reservoir are assigned a priority of 1880 under the Distribution Proposal. (Enclosure 4 - Storage Rights, p.2) While PRWUA is of the view that the priority of the foregoing rights are earlier and could even predate the primary storage rights in Utah Lake, it is clear that the assigned 1880 priorities predate the secondary storage rights in Utah Lake. Furthermore, the 3400 AF comprised the prior consumptive use on the Deer Creek Reservoir lands and never reached Utah Lake. Accordingly, the foregoing 3,400 AF should be deducted from the upstream "system storage" in Deer Creek Reservoir as the basis for converting to priority storage. Similarly, Right No. 59-7624 (CUWCD) for 25,000 AF of primary storage and Right Nos. 59-14, -15, and 20 (Central Utah Water Conservancy District) for 57,073 AF of secondary storage should be deducted from upstream "system storage" in Deer Creek Reservoir under the Deer Creek-Strawberry Exchange as the basis for converting upstream "system storage" in Deer Creek Reservoir to priority storage.

#### 3.2.7 - Table 2 (p.9)

The percentages in Table 2 require modification for the adjustments to Right Nos. 59-3496 (North Jordan Irrigation Company) and 59-5272 (SLCWCD) for Jordan River accretions and 59-3517 (Kennecott Utah Copper Corporation) for both the Jordan River accretions and the 3,510 AF limitation in the Proposed Determination as noted above.

### 4.0 Relationship of Storage Rights in Utah Lake and Upstream Reservoirs

#### 4.1 Background (p.9)

PRWUA respectfully suggests that a distinction must be made between the Utah Lake primary storage rights and the Utah Lake secondary storage rights throughout the whole distribution plan.

Robert L. Morgan, P.E.  
January 31, 1992  
Page 5

Thus, the statement on page 9, lines 38, 39, could well apply to the Utah Lake primary storage rights. However, such statement does not necessarily apply to Utah Lake secondary storage rights. As noted above, the priorities of Water Right Nos. 55-7060 and 55-7061, covering the storage of 3,400 AF in Deer Creek Reservoir, are earlier than any of the Utah Lake secondary storage rights. The same applies to all upstream storage rights listed on pages 1, 2 and 3 on Enclosure 4. The foregoing points up the fallacy of combining Utah Lake primary storage rights and secondary storage rights in determining the 616,700 AF of "system storage".

#### 4.2.9 - Table 3 (p.12)

If the "system storage" concept has merit, it would make more sense that separate "system storage" tables be developed for Utah Lake primary storage rights and for Utah Lake secondary storage rights. Table 3 appears to include the quantities of water necessary to satisfy both Utah Lake primary storage rights and Utah Lake secondary storage rights. Upstream storage under rights prior to the Utah Lake secondary storage rights are not subject to call to satisfy the Utah Lake secondary storage rights. Accordingly, the quantities of "system storage" water set forth in the first table would be based on the quantities necessary to satisfy only the Utah Lake primary storage rights. The quantities of "system storage" water set forth in the second table would be based on the quantities necessary to satisfy the Utah Lake secondary storage rights. Upstream storage under rights junior to the Utah Lake primary storage rights, but prior to the Utah Lake secondary storage rights would be included as "system storage" under the first table, but not the second table. Upstream storage under rights junior to both the Utah Lake primary storage rights and secondary storage rights would be included as system storage under both tables.

## 6.0 Other Distribution Issues

### 6.1 Background (p.13)

PRWUA takes issue with the conclusion on lines 25, 26 on page 13, that direct flow rights on the Provo River are senior to the storage rights as relating to Right Nos. 55-7060 and



Robert L. Morgan, P.E.  
January 31, 1992  
Page 6

55-7061, covering the storage of 3,400 AF in Deer Creek Reservoir during the irrigation season. Paragraph 121 of the Provo River Decree specifically provides that with minor exceptions the First to Sixteenth Class rights in the Wasatch Division have priority over the rights in the Provo Division.

It should be noted that the inadequacy referred to in lines 27 and 28 on page 13 have been remedied by the installation of a new monitoring system at Deer Creek Dam which supersedes the old manometer.

PRWUA concurs with the statement on lines 40, 41 on page 13, that the administration of exchange applications is another important distribution issue. In fact, PRWUA respectfully suggests that the Distribution Proposal is fatally defective for its failure to incorporate the exchanges into such proposal. The Provo River Project water rights are predicated on applications to appropriate water, in part, by exchange. For example, PRWUA is entitled to divert 37,200 AF of water from the Weber River for storage in Utah Lake under Water Right No. 35-8756 and to recover a like amount less evaporation losses, but not to exceed 30,000 AF during the following year from the natural flow of the Provo River for storage in Deer Creek Reservoir. PRWUA is also entitled to recover from the natural flow waters of the Provo River a maximum of 17,410 AF for storage in Deer Creek Reservoir in exchange for return flows from the waters diverted from the Weber River and Duchesne River, which accumulated in Utah Lake during the prior year under Water Right No. 55-262, provided that the combined total under the above two water rights shall not exceed 30,000 AF.

In addition to the above, 2,225 shares of stock of PRWUA (equivalent to 2,225 AF) are owned by five stockholders whose irrigated lands are situated above Deer Creek Reservoir in the areas of Kamas and Francis and above Woodland. The Provo River Project waters are delivered from the Provo Reservoir Water Users' Company share of the "head of the river storage" in exchange for their respective shares of Deer Creek Reservoir storage water, which has occurred each year since Deer Creek Reservoir became operational in the 1940's. In sum, to exclude those exchanges from the Distribution Proposal is a mistake and could well render the whole plan unworkable.

Robert L. Morgan, P.E.  
January 31, 1992  
Page 7

6.2.5 (p.14)

PRWUA strongly objects to the concept that exchanges will be administered on a concurrent release and diversion basis and, under no circumstances, will deficits or credits be allowed to be carried over from year to year. Such concept is directly contrary to Water Right Nos. 55-262 and 35-8756 as noted above. Likewise, such concept would abrogate the underlying premise of the Deer Creek-Strawberry Exchange if replacements into Utah Lake were concurrently required for storage of Provo River water in Deer Creek Reservoir.

7.0 Adjudication Issues

7.1 Background (p.14)

PRWUA concurs with the concept that priority dates be established for all water rights within the basin. However, caution must be exercised in assuring that such priority dates will be consistent with the terms of the existing Decrees. With respect to the Provo River, for example, such priority dates must be consistent with paragraph 121 of the Provo River Decree which specifically provides that with minor exceptions the First to Sixteenth Class rights in the Wasatch Division have priority over the rights in the Provo Division. In any event, the Distribution Proposal must comply with Utah Code Ann. § 73-4-11, which specifically provides that pending a final general adjudication decree . . . "if the right to the use of said waters has been theretofore decreed or adjudicated said waters shall be distributed in accordance with such decree until the same is reversed, modified, vacated or otherwise legally set aside."

Additional Comments

PRWUA commends your office for its efforts in attempting to develop a distribution plan. However, PRWUA is apprehensive that the innovative concepts incorporated therein will prove unworkable as a practical matter. On reflection, it could well be that the better approach would be to concentrate your efforts and resources on expeditiously completing the Proposed Determination of Water Rights, particularly on the Provo River

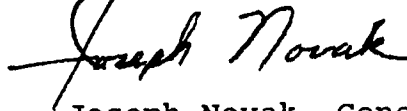
Robert L. Morgan, P.E.  
January 31, 1992  
Page 8

and Utah Lake, and then develop a water distribution plan to administer those water rights.

PRWUA appreciates the opportunity to comment on the 10/15/91 Revised Draft of the Distribution Proposal and trusts that such comments will receive your careful consideration.

Very truly yours,

SNOW, CHRISTENSEN & MARTINEAU

A handwritten signature in cursive script that reads "Joseph Novak". The signature is written in dark ink and is positioned above the typed name and title.

Joseph Novak, General Counsel  
Provo River Water Users'  
Association

JN:dwb

cc: Provo River Water Users' Association  
United States Bureau of Reclamation  
Central Utah Water Conservancy District

SUMMARY OF QUANTITIES OF WATER IN ACRE FEET DELIVERED TO NORTH  
JORDAN IRRIGATION COMPANY FROM GRAVITY FLOW AND PUMPED WATER FROM UTAH  
LAKE TAKEN FROM REPORTS OF UTAH LAKE AND JORDAN RIVER WATER COMMISSIONER

| Year | Total Quantity<br>Delivered In<br>Acre Feet | Gravity Flow<br>Water In<br>Acre Feet | Pumped Water<br>In Acre<br>Feet | Utah Lake<br>Above Compro-<br>mise In Months |
|------|---|---------------------------------------|---------------------------------|--|
| 1936 | 9,259                                       | 2,357                                 | 6,902                           | 0  |
| 1937 | 12,011                                      | 5,593                                 | 6,418                           | 0  |
| 1938 | 12,640                                      | 8,554                                 | 4,086                           | 0  |
| 1939 | 12,730                                      | 8,682                                 | 4,048                           | 0  |
| 1940 | 12,129                                      | 5,230                                 | 6,899                           | 0  |
| 1941 | 9,980                                       | 6,406                                 | 3,574                           | 0  |
| 1942 | 12,259                                      | 9,375                                 | 2,884                           | 0  |
| 1943 | 12,501                                      | 9,567                                 | 2,934                           | 0  |
| 1944 | 12,135                                      | 8,452                                 | 3,683                           | 0  |
| 1945 | 17,411                                      | 15,321                                | 2,090                           | 0  |
| 1946 | 18,556                                      | 17,064                                | 1,492                           | 0  |
| 1947 | 14,377                                      | 12,665                                | 1,712                           | 0  |
| 1948 | 21,435                                      | 16,106                                | 5,329                           | 0  |
| 1949 | 15,188                                      | 12,177                                | 3,011                           | 0  |
| 1950 | 19,963                                      | 18,910                                | 1,053                           | 0  |
| 1951 | 25,009                                      | 23,131                                | 1,878                           | 0  |
| 1952 | 27,313                                      | 27,313                                | 0                               | 9.5  |
| 1953 | 20,470                                      | 20,184                                | 286                             | 6.5  |
| 1954 | 15,494                                      | 14,993                                | 501                             | 0  |
| 1955 | 19,493                                      | 15,846                                | 3,647                           | 0  |
| 1956 | 24,084                                      | 23,925                                | 159                             | 0  |
| 1957 | 24,424                                      | 23,502                                | 922                             | 0  |
| 1958 | 20,426                                      | 18,294                                | 2,132                           | 0  |
| 1959 | 18,557                                      | 18,557                                | 0                               | 0  |
| 1960 | 25,926                                      | 25,732                                | 194                             | 0  |
| 1961 | 16,890                                      | 10,234                                | 6,656                           | 0  |
| 1962 | 14,152                                      | 12,724                                | 1,428                           | 0  |
| 1963 | 16,242                                      | 15,044                                | 1,198                           | 0  |
| 1964 | 21,751                                      | 20,983                                | 768                             | 0  |
| 1965 | 20,645                                      | 20,346                                | 299                             | 0  |
| 1966 | 30,772                                      | 30,772                                | 0                               | 0  |
| 1967 | 34,113                                      | 33,110                                | 1,003                           | 0  |
| 1968 | 19,605                                      | 19,300                                | 305                             | 0  |
| 1969 | 13,164                                      | 13,164                                | 0                               | 0.5  |
| 1970 | 10,803                                      | 10,803                                | 0                               | 0  |
| 1971 | 14,294                                      | 14,294                                | 0                               | 0  |
| 1972 | 13,121                                      | 12,068                                | 1,053                           | 0  |
| 1973 | 11,104                                      | 10,745                                | 359                             | 1  |
| 1974 | 7,822                                       | 7,414                                 | 408                             | 2  |
| 1975 | 11,037                                      | 10,599                                | 438                             | 3  |

| Year                  | Total Quantity<br>Delivered In<br>Acre Feet | Gravity Flow<br>Water In<br>Acre Feet | Pumped Water<br>In Acre<br>Feet | Utah Lake<br>Above Compro-<br>mise In Months |
|-----------------------|---|---------------------------------------|---------------------------------|--|
| 1976                  | 8,034                                       | 7,057                                 | 977                             | 4.5  |
| 1977                  | 6,853                                       | 6,853                                 | 0                               | 0  |
| 1978                  | 4,524                                       | 4,423                                 | 101                             | 0  |
| 1979                  | 4,121                                       | 3,881                                 | 240                             | 0  |
| 1980                  | 2,698                                       | 2,698                                 | 0                               | 3  |
| 1981                  | 2,443                                       | 2,443                                 | 0                               | 0  |
| 1982                  | 3,743                                       | 3,743                                 | 0                               | 8  |
| 1983                  | 4,682                                       | 4,682                                 | 0                               | 12   |
| 1984                  | 2,848                                       | 2,848                                 | 0                               | 12   |
| 1985                  | 16,113                                      | 16,113                                | 0                               | 12   |
| 1986                  | 9,769                                       | 9,769                                 | 0                               | 12   |
| 1987                  | 8,486                                       | 8,486                                 | 0                               | 3.5  |
| 1988                  | <u>3,718</u>                                | <u>3,718</u>                          | <u>0</u>                        | <u>0</u>                                     |
| Totals                | 767,317                                     | 686,250                               | 81,067                          |  |
| 53 yr. avg.           | 14,478                                      | 12,948                                | 1,530                           |  |
| Recent 20 yr.<br>avg. | 7,969                                       | 7,790                                 | 179                             |  |
| Recent 10 yr.<br>avg. | 5,862                                       | 5,838                                 | 24                              |  |

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JAN 31 1992  
WATER PLBY  
SALT LAKE

LEROY W. HOOTON, JR.  
DIRECTOR

E. TIM DOXEY  
DEPUTY DIRECTOR

JAMES M. LEWIS C.P.A.  
FINANCE ADMINISTRATOR

W. WILLIAMS FARMER P.E.  
TREATMENT & ENVIRONMENTAL  
ADMINISTRATOR

CHARLES CALL, JR. P.E.  
CHIEF ENGINEER

CRAIG HANSEN  
MAINTENANCE ADMINISTRATOR

FLORENCE P. REYNOLDS  
WATER QUALITY ADMINISTRATOR

## **SALT LAKE CITY CORPORATION**

### **DEPARTMENT OF PUBLIC UTILITIES**

**Water Supply & Waterworks  
Water Reclamation & Stormwater**

1530 SOUTH WEST TEMPLE  
SALT LAKE CITY, UTAH 84115

January 31, 1992

DEEDEE CORRADINI  
MAYOR

Robert L. Morgan, P.E.  
Utah State Engineer  
1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156

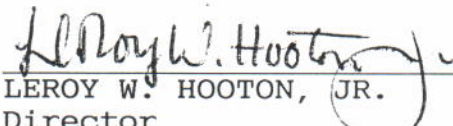
RE: PROPOSED DISTRIBUTION OF WATER WITHIN UTAH  
LAKE DRAINAGE BASIN (10/15/91 REVISED DRAFT)

Dear Mr. Morgan:

In regards to your extended period for comments relative to the Proposed Distribution of Water Within Utah Lake Drainage Basin, Salt Lake City would like to reserve the right to review and make comments to any other comments made during the extension period.

Utah Lake is a vital interest to Salt Lake City and we would appreciate having the opportunity to respond to any comments you receive relative to the proposed distribution plan.

Sincerely,

  
\_\_\_\_\_  
LERoy W. HOOTON, JR.  
Director

LWH:db

# North Jordan Irrigation Co. RECEIVED

January 28, 1992

4788 Hidden Cove  
Taylorsville, Utah 84123  
261-3166

JAN 29 1992

Mr. Robert L. Morgan  
Utah State Engineer  
1636 West North Temple  
Salt Lake City, UT 84116

SALT LAKE

RE: Draft Utah Lake Drainage Basin Distribution Proposal

Dear Mr. Morgan:

North Jordan Irrigation Company ("North Jordan") submits the following comments with respect to the October 15, 1991 draft distribution proposal for the Utah Lake Drainage Basin. North Jordan supports the concept of a more fully integrated distribution program for the Utah Lake Drainage Basin. However, any such proposal must protect established rights in Utah Lake and the Jordan River. In this regard, North Jordan has some concerns and questions resulting from the current draft proposal:

- 1) There is somewhat of an inconsistency between Table 1 on page 8 and the tabulation which sets forth storage rights greater than or equal to 100 AF. Table 1 shows North Jordan as a primary storage right for the irrigation of 1,069.99 acres with an annual supply of 5,350 AF of water. Whereas, the tabulation only shows a flow of 27.54 cfs and a footnote reference that the acre-foot value of this right is being evaluated by the State Engineer. The footnote comment seems to be unnecessary and tends to give the impression that Table 1 is in error.
- 2) It is difficult at this time to forecast the precise impact of the draft distribution proposal on the regiment of Utah Lake and the Jordan River. This is so because the draft proposal will, to some degree, alter the manner in which the water has been historically managed through the various reservoirs on the system. Also, the operation of the Jordanelle Reservoir, once it is completed, will introduce an additional factor into the overall management of this system. Consequently, if a new distribution plan is implemented, it should be done on an interim or trial basis and should be without prejudice to the respective rights of the water users. This should be coupled with an annual meeting and report of the State Engineer which reviews the operation of the system for the previous year.
- 3) Any distribution proposal that is implemented should reaffirm that it is not an adjudication of the individual rights of the parties and that any such adjudication will occur within the framework of the pending statutory adjudication. Further, it should be made clear that this is not a proceeding under either the Utah Administrative Procedures Act or under the Utah Rule-Making Act.

Very truly yours,



K. L. Hansen  
President

/CS



# Central Utah Water Conservancy District

355 WEST 1300 SOUTH OREM, UTAH 84058-7303  
TELEPHONE (801) 226-7100

R. Roscoe Garrett, *President*  
Leo L. Brady, *Vice President*  
Don A. Christiansen, *Secretary/Treasurer*

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JAN 28 1992

January 23, 1992

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Mr. Robert L. Morgan, State Engineer  
Department of Natural Resources  
Division of Water Rights  
1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156

Dear Bob:

The District appreciated the opportunity of attending the second public hearing on November 14, 1991, and the opportunity of reviewing your revised proposals regarding the distribution of water within the Utah Lake Drainage Basin. We wish to submit our further comments and concerns in regard to this proposed distribution plan prior to final adoption.

As you are aware one of the main concerns that the District has with the proposal is the administration of exchanges. Because of commitments for minimum fish flows and other problems in relation to exchanging water from Strawberry Reservoir to Deer Creek or Jordanelle, it becomes very difficult for the District to make instantaneous exchanges. This is further complicated because of the environmental restrictions and the available space in conveyance systems. It is the District's belief that in some instances it would be more prudent to delay replacement of exchange water. We feel that further review and clarification of this point is needed.

Although the District agrees with the concept in relation to the proposed 5,000 acre-foot regulation pool, and our work with the River Commissioner has clearly demonstrated that such a pool would help in the distribution of water on the Provo River, we feel rules and regulations and some type of Memorandum of Understanding needs to be prepared which would set forth the provisions that would be necessary in order to accomplish the use of such a pool.

I would be happy to meet with you to discuss the above issues at your earliest convenience in order to further clarify the proposed distribution plan. Please inform us



Mr. Robert L. Morgan  
January 23, 1992  
Page 2

of any further public meetings or requirements we need to meet in order to protect the water rights of the District.

Sincerely yours,

A handwritten signature in cursive script, reading "Don A. Christiansen".

Don A. Christiansen  
General Manager

DAC/HJP:dv

cc: Steve Clyde  
USBR, Provo



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WILDLIFE RESOURCES

Norman H. Bangerter  
Governor  
Dee C. Hansen  
Executive Director  
Timothy H. Provan  
Division Director

1596 West North Temple  
Salt Lake City, Utah 84116-3195  
801-538-4700  
801-538-4709 Fax

January 22, 1992

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JAN 24 1992

WATER RIGHTS  
SALT LAKE  
BPC

Mr. Robert L. Morgan, P. E.  
State Engineer  
1636 West North Temple  
Salt Lake City, Utah 84116

Subject: Proposed Utah Lake distribution plan

Dear Bob:

We have reviewed the draft distribution plan for the Utah Lake drainage, including the major sub-basins. We realize that despite the many hours of effort invested in the plan so far, the plan is preliminary at this point, and many of the finer details have not yet been worked out. Recognizing this, our comments are provided with the intent of identifying those issues needing additional clarification, and identifying what we consider to be benefits of the plan and also potentially major adverse impacts on hydrology, water quality, and affected biotic communities.

#### What the Plan Does

As we understand the proposed plan, the following objectives would be addressed:

1. Protection of prior rights would be assured.
2. Water would be distributed in accordance with court decrees.
3. Storage rights would be defined, based on priority, with "system storage" established to allow for exchanges to occur. System storage may be subject to call to satisfy downstream senior rights.
4. A reregulation pool ("buffer") would be created in Jordanelle Reservoir, to allow the river commissioner to more accurately distribute direct flow rights on Provo River.
5. Proposed irrigation duties for pending adjudications are presented.

The Division of Wildlife Resources supports these objectives of the plan. We believe that more controlled distribution of water, especially on the Provo River, is sorely needed, and affected stream fisheries could benefit from more flow being left in the river, and elimination of some of the "dry dams".

#### Adverse Consequences of the Plan

Examination of the data provided in the draft plan reveals potentially major adverse impacts to water quality, wetlands, aquatic, avian and terrestrial wildlife would result. Although it is probably not appropriate that the distribution plan be held accountable for those impacts, e.g. other actions such as water right exchanges, changes of use, etc. have contributed to the circumstances necessitating this comprehensive plan, we feel the issues should be disclosed at this time. Specifically, the greatest concern is the effect this plan will have on Utah Lake. The model predicts that Utah Lake, on average, will be approximately four (4) feet lower than historical. This would have the following effects which need to be investigated:

1. Water Quality- The water quality of Utah Lake will be severely impaired. Salinity will markedly increase. Aquatic biota, vegetation, and limnological characteristics could be adversely affected. Turbidity will likely increase, because of an even shallower water body more prone to wind action. Dissolved oxygen concentrations could drop low enough,

especially in the shallow(er) bays, to cause fish kills under winter ice cover. The June sucker, a federally listed endangered species, could be adversely affected.

2. Wetlands- The shallow bays of Utah Lake, especially Goshen Bay and Provo Bay, are extremely valuable wetland areas. These areas are critically important to thousands of migratory shorebirds and waterfowl in the Pacific flyway, providing nesting, rearing, and migrating stop-over habitat throughout most of the year. Based on a cursory review of bathymetry data, we estimate that more than 3,000 surface acres (mostly wetland) would be lost from Goshen Bay with a change in water elevation from 4490 feet msl to 4485 feet msl. Provo Bay is a "perched" system, because of the narrow outlet and relatively high inflow (at present). With lower inflow, and less frequent periods of deeper water, invasion by cattail (a low-value plant species for wildlife) will likely choke off much of the bay. Peripheral wetlands around the lake shoreline may be impacted, although a more detailed investigation of contours and local hydrologic conditions would be required to determine this.

The Utah Division of Wildlife Resources owns and manages Powell Slough Waterfowl Management Area, near the shores of Utah Lake in Orem. The slough generally stores water above the Utah Lake level, although in times of high water, the difference in elevation is much less. We are uncertain what effect the lower (with the plan) lake levels might have on local hydrologic conditions, and how the ecology of Powell Slough might be altered. The many wildlife species which use the area could be adversely affected.

3. Fisheries- Fish populations in Utah Lake, especially the endangered June sucker, could be adversely impacted by the plan, as a result of water quality changes already described, from increased water temperatures, from reduced habitat area, and a variety of other interrelated factors. Impacts to game fish species in the lake, including walleye, channel catfish, and white bass would likely be similarly adverse.

#### Other Concerns with the Plan

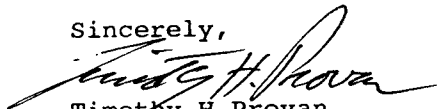
1. The draft plan requires that all exchanges of water take place concurrently, or at least within the same season. We can recognize distinct advantages, at least in some situations, of allowing the replacement water to be delivered off-season, usually during the non-irrigation season. As an example, the Deer Creek-Strawberry Exchange enacted several years ago provides an opportunity to increase winter streamflows in the Sixth Water/Diamond Fork/Spanish Fork river drainage, as water is delivered from Strawberry Reservoir to Utah Lake. The higher (e.g. 70 to 90 cfs) flows provide better winter habitat than would natural winter flows (about 15 cfs) in the enlarged stream channels created by excessive irrigation flows during summer. Allowing the exchange to take place during the winter, although not without some administrative problems, can be beneficial from a fishery and wildlife standpoint, and we recommend the plan allow greater flexibility in this regard.

2. We believe the plan must consider imported water in order to be truly comprehensive and provide for all the needs of various users in the basin. Once water is brought into the Utah Lake basin (or its subbasins), it should come under the administration of this plan, via the appropriate river commissioner and/or Utah Division of Water Rights. We expect that virtually all future water development is going to occur through exchanges involving imported water, and this facet cannot be ignored.

Mr. Robert L. Morgan, P.E.  
January 22, 1992  
Page Three

We appreciate the opportunity to review and comment on this proposed plan. As indicated previously, many of the comments presented here are not exclusive to the draft distribution plan. This Division is deeply involved in assessing the various components of the Central Utah Project which in particular will strongly influence the future of water resource management in the Utah Lake basin. We appreciate the exceptional efforts of your staff in preparing this draft plan and look forward to working closely with your office as many of these issues come to resolution in the years ahead.

Sincerely,



Timothy H. Provan  
Director

cc: Central Utah Water Conservancy District  
U.S. Fish and Wildlife Service  
Utah Division of Water Quality

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JAN 17 1992

WATERBURY  
SALT LAKE

519 Northmont Way  
Salt Lake City, UT 84103  
January 13, 1992

Robert L. Morgan  
DNR Division of Water Rights  
1636 W. North Temple, Suite 220  
Salt Lake City, UT 84116-3156

Dear Mr. Morgan:

I am responding to your request for input to the final plan for the distribution of water rights within the Utah Lake Drainage Basin. My comments are made on behalf of the Utah Audubon Society.

We are concerned with the lack of information in the plan on the effect that the varying lake levels would have on the shoreline. The horizontal as well as the vertical dimensions of the Lake need to be considered. The consequences of a changing shoreline are too important to be ignored in a comprehensive water management plan.

Obviously these consequences relate to matters of land ownership, taxation, recreation, and more.

Our particular concern is that valuable habitat for waterfowl and shorebirds might possibly be destroyed by some unknown, small change in the lake level, and most certainly will be destroyed by the maximum change specified in the plan, 9.2 feet.

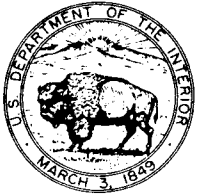
Provo Bay, Benjamin Slough, Powell Slough State Waterfowl Management Area, and Goshen Bay are all significant enough to wildlife to have been considered as national refuges. Provo Bay is a particularly important location for birds migrating through our desert region on the Pacific and Central Flyways. Disturbance of their staging and nesting areas threatens their existence and thus our quality of life on this small planet.

I hope you will study these matters as you draw up your plan, which we understand is necessary to meet the human growth needs of the area. Thank you for the opportunity to make this statement.

Yours truly,

*Carol Withrow*  
Carol Withrow  
Utah Audubon Society

*P.S. We would appreciate  
a specific response to our  
concerns, if that is  
possible. Thanks - C.W.*



# United States Department of the Interior

BUREAU OF RECLAMATION  
UPPER COLORADO REGION  
PROVO PROJECTS OFFICE  
P.O. BOX 51338  
PROVO, UTAH 84605-1338

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JAN 17 1992

IN REPLY  
REFER TO:

PPO-412

JAN 15 1992

WATER BUREAU  
SALT LAKE

Robert L. Morgan, P.E.  
State Engineer, Division of  
Water Rights  
Attention: Investigations Section  
1636 West North Temple, Room 200  
Salt Lake City UT 84116

Subject: Distribution of Water Within the Utah Lake Drainage Basin (Water Rights)

Dear Mr. Morgan:

After attending the second public hearing (held on November 14, 1991) and reviewing your revised proposal regarding the above-referenced contract, we wish to submit comments and concerns as follows:

1. Of greatest concern to us is the administration of exchanges. In some instances, our ability to provide replacement water in a short timeframe is limited by environmental restrictions or available space in conveyance systems. In addition, we believe there are instances when it would be more prudent to delay replacement of exchange water. Further review and clarification on this point is needed. Included in this, you might discuss other methods (as alluded to in your August 2, 1991, responses) that could be used to accomplish the same result.

2. There is still some confusion about the proposed 5,000 acre-foot regulation pool. Please provide additional clarification and discussion of this point.

We appreciate your efforts in the formulation of a workable distribution system, and would like to continue to be involved in the process. We look forward to your responses to our concerns. Please inform us of the date and time for the next public meeting.

Sincerely,

Bruce C. Barrett  
Projects Manager

GERALD K. MALONEY, Chairman and Director  
GLEN B. CANNON, Vice Chairman and Director



DAVID G. OVARD  
General Manager  
Secretary, Treasurer

December 27, 1991

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JAN 02 1992

WATER RIGHTS  
SALT LAKE

Mr. Robert L. Morgan, PE  
State Engineer  
Department of Natural Resources  
Water Rights Division  
1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3193

Dear Mr. Morgan:

SUBJECT: Proposed Utah Lake Basin Distribution Plan

We appreciated meeting with you on November 14, 1991 during your presentation of the proposed Utah Lake basin distribution plan. As you requested, we offer the following comments:

1. We support the concept of the plan. We believe that the use of system storage and priority storage will allow for a more efficient operation of the entire drainage system.
2. The plan is fairly detailed and complex, and all of the effects cannot be understood at this time. We recommend an interim trial period to test the plan before it is finalized.
3. We support your finding that North Jordan Irrigation Company has a primary storage right in Utah Lake, as tabulated in Table 1. Critics have recently stated that North Jordan diversions have generally been from the Jordan River. But this has been a result of the failure of senior Jordan River rightholders to divert their water rights.

We will look forward to future meetings with you on this issue.

Sincerely,

David G. Ovard  
General Manager

lt



Norman H. Bangertter  
Governor  
Kenneth L. Alkema  
Executive Director

# State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE EXECUTIVE DIRECTOR

288 North 1460 West  
Salt Lake City, Utah  
(801) 538-6121  
(801) 531-6016 Fax

Reply to: State of Utah

Office of the Executive Director  
Department of Environmental Quality  
Salt Lake City, Utah 84114-4810

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NOV 18 1991

WATER RIGHTS  
SALT LAKE

November 1, 1991

Mr. Robert Morgan, P.E.  
State Engineer  
1636 West North Temple  
Salt Lake City, Utah 84116-3156

RE: Revised "Distribution of Water Within the Utah Lake Drainage Basin"

Dear Mr. Morgan:

We appreciated the opportunity of reviewing the above-referenced document which you sent to me on October 15, 1991. The document primarily focused on water right and quantity issues that directly impact the water user. Concerns relating to these issues are best addressed by the water users. We are especially concerned about those entities utilizing this water for drinking purposes, and desire that their rights are adequately protected.

Page 14 of the document referenced the issue of water quality in Utah Lake. The document recognizes that water quality in the lake is very important, and that there are many unknowns at the present time which will affect the future salinity levels of the lake. We also are very concerned with water quality in Utah Lake. We desire that the quality of the water not be degraded; state and federal law requires that water quality standards for salinity be maintained, and that the beneficial uses of the lake not be impaired. We appreciate your concerns in this regard.

If we may be of any assistance in these issues, please contact Don Ostler in the Division of Water Quality (6146) or Gayle Smith in the Division of Drinking Water (6159). Thank you for the opportunity to comment on this draft.

Sincerely,

Kenneth L. Alkema  
Executive Director

KLA:JBP:rvg  
L:MORGANLEIR